

COMMONWEALTH OF MASSACHUSETTS  
SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT

WORCESTER, SS.

CIVIL ACTION NO. 03-2519C

ELIZABETH R. STEFFENBERG, )  
Plaintiff, )  
 )  
v. )  
 )  
T. GENE GILMAN, STEVEN GILMAN, )  
THE GILMAN INSURANCE )  
AGENCY, INC., DAVID M. SCOLL, )  
ARBOR SECURITIES, LTD., )  
ALLIANCE INVESTMENT )  
MANAGEMENT, COMMONWEALTH )  
FINANCIAL HOLDINGS INC., )  
FINANCIAL LINKS, INC., )  
T. GILMAN & CO., LTD., )  
FIRST ALLIED SECURITIES, INC., )  
PENSON FINANCIAL SERVICES, INC., )  
AVIVA USA CORPORATION, )  
TRADETEK, LTD., TRADETEK, LLC, )  
and IVY HELIX, LLC, )  
Defendants. )

**FILED**

APR 26 2004

ATTEST:

*Frank A. Ford*  
CLERK

Notices Mailed 5/30/04

4/30/04

No opposition having been filed  
pursuant to Rule 9a, motion  
allowed.

*[Signature]*  
First Assistant Clerk

**PLAINTIFF'S ASSENTED-TO MOTION FOR LEAVE  
TO FILE SECOND AMENDED VERIFIED COMPLAINT**

Pursuant to Rules 15(a) and 21 of the Massachusetts Rules of Civil Procedure, Plaintiff, Elizabeth R. Steffenberg ("Mrs. Steffenberg") requests leave to file the Second Verified Amended Complaint attached hereto as Exhibit A. Defendants who have appeared in this matter to date assent to this motion.

Mrs. Steffenberg seeks to amend her First Amended Verified Complaint to add a party, Aviva Life Insurance Company ("Aviva Life") and drop Defendant, Aviva USA Corporation ("Aviva USA") from this matter. Mrs. Steffenberg has been informed that Aviva Life, not the

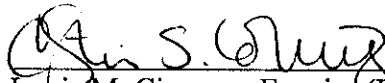
current defendant, Aviva USA Corporation, is the proper party in interest with respect to her claims concerning her and her husband's life insurance policy. Accordingly, she will be filing a Stipulation of Dismissal as to her claims against Defendant Aviva USA Corporation.

Mrs. Steffenberg's Motion is offered in good faith and will result in no delay of this action. Therefore, where the substitution of Aviva Life is intended to correct a technical mistake in naming a party and "leave [to amend] shall be freely given when justice so requires," this Court should allow Mrs. Steffenberg to amend her First Amended Verified Complaint. Mass. R. Civ. P. 15(a) and 21. See Clamp-All Corporation v. Foresta, 53 Mass. App. Ct. 795, 809 (2002); Castellucci v. United States Fidelity & Guaranty Co., 372 Mass. 288, 289 (1977).

**WHEREFORE**, Plaintiff, Elizabeth R. Steffenberg, respectfully requests that this Court grant her leave to file the Second Amended Verified Complaint attached hereto as Exhibit A.

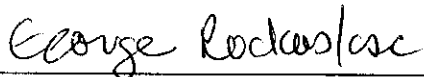
Respectfully submitted,

ELIZABETH R. STEFFENBERG,  
By Her Attorneys,



Louis M. Ciavarra, Esquire (BBO #546481)  
Christine S. Collins, Esquire (BBO #639293)  
Bowditch & Dewey, LLP  
311 Main Street  
P.O. Box 15156  
Worcester, MA 01615-0156  
(508) 926-3441  
(508) 929-3041

ASSENTED TO:

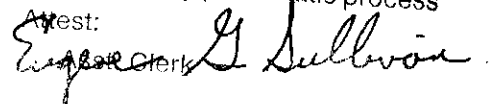


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B. J. Krintzman, (BBO #559318)  
30 Avalon Road  
Waban, MA 02468-1610  
Tel: (617) 244-7700

A true copy by photostatic process

Attest:  
  
Eugene G. Sullivan, Clerk

CERTIFICATE OF SERVICE

I, Christine S. Collins, hereby certify that I have this 23<sup>rd</sup> day of April, 2004 served the foregoing by mailing copy thereof, via first class mail, postage prepaid, to all parties and counsel of record.

  
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Christine S. Collins